



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/701,207

11/04/2003

Luis A. Diaz

60,210-193

5170

27305

7590

06/23/2006

HOWARD & HOWARD ATTORNEYS, P.C.  
THE PINEHURST OFFICE CENTER, SUITE #101  
39400 WOODWARD AVENUE  
BLOOMFIELD HILLS, MI 48304-5151

EXAMINER

GRAY, PHILLIP A

ART UNIT

PAPER NUMBER

3767

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/701,207

Applicant(s)

DIAZ ET AL.

Examiner

Phillip Gray

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 179-182 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 179-182 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/4/03; 3/3/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This Office action is in response to applicant's communication filing of 11/4/2003. Currently amended claims 1-19 and 179-182 are pending and rejected. Applicant previously cancelled claims 20-178.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains greater than 150 words and legal phraseology. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3767

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,7-13,16-19,179-181 are rejected under 35 U.S.C. 102(b) as being anticipated by Archibald (U.S. Patent Number 4,236,880). Archibald discloses an integrated medication delivery system for delivering medication to a patient suitable for complete sterilization by a fluid (generally column 3-16 and figures 1-19). The Archibald medication delivery system contains a base housing (23), a medication reservoir (from 14, listed not shown), a pump assembly (108,11,114,117) with inlet and outlet that alternate between open and closed state (14,15), a port (14) and actuator (20 or 122, 98,96) (See figure 7 specifically), and Archibald contains structures that are fully capable of performing all limitations of the claims (i.e. Sterilization by fluid if device was opened by actuator 20). Archibald further discloses pinch levers at the outlet and inlet in a normally closed state (see 44,46,42), a continuous fluid flow path, and an actuator (20 and 102,118) that moves the levers to maintain the open/closed state for medication delivery. Archibald discloses a motor (94), engagement arms (44, 38, 46, ect), actuation arms (96 or 20) and pistons (109,111,115,117) with actuation and pump ends that contain a diaphragm seal (38,46,40,36) and pump housing (10,12) which draws medication into said pump housing (10) and to displace the medication.

***Claim Rejections - 35 USC § 103***

Art Unit: 3767

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 5-6,14-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Archibald in view of Jacobsen et al (5,807,075).

Archibald discloses the claimed invention except for the electronic control and display device on the base housing. Jacobsen teaches that it is known to use the electronic control and display device on the base housing as set forth in paragraphs at column 3-5 to provide an effective quick look visual information and electrical control of the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the medication delivery system as taught by Archibald with the electronic control and

Art Unit: 3767

display device on the base housing as taught by Jacobsen, since such a modification would provide the medication delivery system with the electronic control and display device on the base housing for providing an effective quick look visual information and electrical control of the device.

Claim 182 is rejected under 35 U.S.C. 103(a) as being unpatentable over Archibald in view of Jacobsen et al (5,807,075).

Archibald discloses the claimed invention except for the slot and detent piston/housing engagement. Jacobsen teaches that it is known to use a slot and detent piston/housing engagement as set forth in paragraph at columns 6-7 and figure 6, to provide a controlled and exact movement of a piston within a housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the medication delivery system as taught by Archibald with a slot and detent piston/housing engagement as taught by Jacobsen, since such a modification would provide the medication delivery system with a slot and detent piston/housing engagement for providing a controlled and exact movement of a piston within a housing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571) 272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The

Art Unit: 3767

fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



PAG

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

